IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.549 OF 2003.

IN

SUMMARY SUIT NO. 2845 OF 2002

Rajendra Electrical Inds Ltd .. Plaintiff

versus

M/s Harison Cooling Towers P.Ltd .. Defendant

...

Mr.R.C.Ojha for Plaintiff.

None for Defendant.

CORAM : D.G. KARNIK, J

DATED : 2nd March, 2005.

P.C:-

1. Heard learned counsel for the plaintiff. None for the defendant. Learned counsel for the plaintiff hands in the affidavit of service and the original documents under a list. The affidavit of service and documents are taken on record. Documents are collectively marked Exhibit A for identification. Despite service of the Summons for Judgment, the

defendant has not applied for leave to defend nor has it filed any affidavit in reply. In the circumstances, the averments made in the plaint are deemed to be accepted. The plaintiff is entitled to a decree under order 37 Rule 3 (6) of the Code of Civil Procedure.

2. Perused the plaint and documents filed on record. Under 5 different invoices the plaintiff supplied goods to the defendant. The defendant signed the delivery challans. 5 invoices and the delivery challans are filed on record. By a letter dated 13th May, 2001 the defendant admitted its liability and promised to make the payment by 31st May, 2001. However, failed and neglected to do so. By a demand notice dated 18th August, 2001 the plaintiff demanded payment. However, the defendant failed and neglected to doso. The invoices provide for interest. Interest has been calculated asper the contract contained in the invoice. I am satisfied that the plaintiff is entitled to a decree as prayed.

3. For the reasons mentioned above, Summons for Judgment is made absolute and suit of the plaintiff is decreed under order 37 Rule 3 (6) of the Code of Civil

Procedure as follows :

" The defendant shall pay to the plaintiff a sum of Rs.1,50,520/- together with interest on the principal sum of Rs.91,142/- at 6 % p.a. from the date of the suit till payment and all costs of the suit."

D.G.KARNIK, J